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6
 7 **UNITED STATES BANKRUPTCY COURT**

8 **DISTRICT OF NEVADA**

9 In re

10 DORA DOG PROPERTIES, LLC,

11 Debtor.

Lead Case No.: BK-19-50103-gs
 (Chapter 7)

Jointly Administered with:

19-50104-gs	Dog Blue Properties, LLC
19-50105-gs	Brandy Boy Properties, LLC
19-50106-gs	475 Channel Road, LLC
19-50108-gs	Park Road LLC
19-50109-gs	140 Mason Circle LLC

13 Affects:

- 14 ☐ ALL Debtors
 15 ☒ Dora Dog Properties, LLC
☐ Dog Blue Properties, LLC
☐ Brandy Boy Properties, LLC
☐ 475 Channel Road, LLC
☐ Park Road LLC
☐ 140 Mason Circle LLC

**OBJECTION BY CHRISTINA LOVATO
 TO APPLICATION FOR ORDER
 AUTHORIZING EMPLOYMENT OF REAL
 ESTATE BROKER [FIRST REPUBLIC
 REAL ESTATE] [ECF NO. 682]**

Hearing Date: August 11, 2022

Hearing Time: 9:30 a.m.

22 Christina Lovato, in her capacity as chapter 7 trustee (“Trustee Lovato” or “Double Jump
 23 Trustee”), for the substantively consolidated estates of Double Jump, Inc., DC Solar Solutions,
 24 Inc., DC Solar Distribution, Inc., and DC Solar Freedom, Inc. (the “**DC Solar Estate**”), objects to
 25 the Application For Order Authorizing Employment of Real Estate Broker [First Republic Real
 26 Estate] (“Application”), filed by Trustee W. Donald Gieseke (“Trustee Gieseke”), as [ECF No.
 27 **682**]. Trustee Lovato’s Objection is supported by the separately filed Declaration of Seth Freeman.
 28 The subject of the Application is the sale of the Antioch Mini-Storage Property (the “AMS

Property”). The Application is supported by the separately filed Declaration of Ray “Jimmy” Smith at [ECF No. 683].

Trustee Lovato’s Standing¹

On June 10, 2022, this Court entered its Order Approving Settlement Of DC Solar Estates And Funds/Investors’ Claims Against Real Property Debtor Estates Pursuant To FRBP 9019 (“Settlement Order”). [ECF No. 675]. The Settlement approved by the Court involves the distribution of proceeds from the sale by Trustee Gieseke of improved real property commonly referred to as the Antioch Mini Storage property located in Antioch, California. Attached to the Settlement Order is a copy of the Settlement Agreement which describes the proceeds distribution formula:

¶ 7. The Antioch Mini-Storage settlement scheme is not impacted (i.e., on sale of the property proceeds will be distributed in the following order: i) costs of sale; ii) Double Jump \$3M; iii) \$1M to Dora Dog; iv) split proceeds between the Dora Dog Estates and the Double Jump Estate 50/50 up to a max recovery of \$4.2M, then all remaining proceeds to the Dora Dog Estates).

¶ 8. Notwithstanding the allowed claim amounts of the Investors and the Double Jump Trustee, the distribution scheme of the Dora Dog Estates is as follows:

- a. First, administrative fees for the Trustee (Gieseke) and his professionals;
- b. Second, \$500,000 for payment of allowed pre-petition claims and the administrative fee of Clark Hill (“Admin and Trade Amount”);
- c. Third, the Double Jump estate will receive \$1M plus the amount of distributions to be provided to the Double Jump Estate by the Antioch Mini-Storage settlement (as described in paragraph 7 above); and,
- d. Fourth, 100% of the remainder of the Dora Dog Estates’ proceeds to be distributed to the funds based upon their pro rata share of their Allowed

¹ Trustee Lovato is the chapter 7 trustee for Double Jump, Inc., case no. 19-50102-gs, DC Solar Solutions, Inc., case no. 19-50130-gs, DC Solar Distribution, Inc. case no. 19-50131-gs, and DC Solar Freedom, Inc., case no. 19-50135-gs.

1 Claims (such amount to include any unused portion of the Admin and Trade
2 amount).

3 Case no. 19-50103-gs, [ECF No. 675, page 7 of 19].

4 **Objection**

5 Trustee Lovato objects to the Application on the basis that the proposed commission of
6 7.25% is excessive.

7 The Application was initially filed on July 8, 2022 on an *ex parte* basis. The Application
8 included a copy of the proposed Commercial and Residential Income Listing Agreement and
9 indicated that the listing was to commence on April 1, 2022 and to end on February 28, 2023. The
10 proposed listing price is \$6,100,000. It is unclear whether the AMS Property has already been
11 exposed on the Multiple Listing Service. On July 29, 2022, Trustee Gieseke filed his Ex Parte
12 Motion For Order Shortening Time indicating that he had received three verbal offers in excess of
13 \$6 million and required the assistance from First Republic Real Estate to negotiate with
14 prospective purchasers. [ECF No. 696].

15 Although Trustee Lovato recognizes that this is the first step for Trustee Gieseke in
16 proceeding to sell the AMS Property, she asserts that there is insufficient information to justify a
17 sale commission of 7.25%, i.e., \$442,250, for a property which already has three verbal offers in
18 excess of \$6 million. On August 9, 2022, Trustee Gieseke filed three quarterly operating reports
19 which reflect revenue and expenses for the AMS Property, with the most recent report for June
20 2022 indicating gross revenue slightly in excess of \$40,000. Absent is any information on the total
21 number of storage units and the vacancy rate.

22 As set forth in the Freeman Declaration, he believes that the market for properties such as
23 the AMS Property is strong and there well may be competitive bidding. Mr. Freeman is familiar
24 with the AMS Property as a result of the time period shortly before these cases were filed in early
25 2019 during which he was engaged as the Chief Restructuring Officer for the various Carpoft
26 related entities, and then as appointed in the same position, post-petition and prior to the
27 appointment in March 2019 of Trustee Lovato and Trustee Gieseke, respectively. Freeman
28

1 indicates that if appointed as a broker to sell the AMS Property, he would request a commission
2 of 4%.

3 **Conclusion**

4 In principle, Trustee Lovato understands that Trustee Gieseke has been working with Mr.
5 Smith and First Republic Real Estate on the administration of other properties and has no objection
6 to their employment to market and sell the AMS Property; however, she believes the proposed
7 commission of 7.25% is not justified. A hypothetical commission of \$442,250, or more, has the
8 potential of adversely impacting the potential return to the DC Solar Estate based upon the
9 methodology for distribution of the sale proceeds from the sale of the AMS Property as described
10 above.

11 Accordingly, Trustee Lovato requests that the Court deny the Application to employ Mr.
12 Smith and First Republic Real Estate at a commission rate of 7.25%.

13 DATED: August 10, 2022.

14 **HARTMAN & HARTMAN**

15 /s/ Jeffrey L. Hartman

16 Jeffrey L. Hartman, Esq., Attorney for Trustee

17 APPROVED

18 /s/ Christina Lovato

19 Christina Lovato, Trustee
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